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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,178	10/29/2003	Katerina Leftheris	QA0237 Div 1	6531
23914 7590 04/05/2007 LOUIS J. WILLE BRISTOL-MYERS SQUIBB COMPANY PATENT DEPARTMENT P O BOX 4000 PRINCETON, NJ 08543-4000			EXAMINER PRYOR, ALTON NATHANIEL	
			ART UNIT	PAPER NUMBER
			1616	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/696,178	Applicant(s) LEFTHERIS ET AL.	
	Examiner Alton N. Pryor	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 17 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/1/07</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

I. Rejection of claims 1-6 under 35 USC 112, 1st paragraph will not be maintained in light of amendment filed 1/17/07. Claims 7 and 8 are cancelled. Applicant has amended claims to recite specific conditions.

II. Rejection of claims 1,3,5,6 under 35 USC 103(a) as being obvious over Hunt et al will be maintain in light of amendment filed 1/17/07 for reason on record and reason as follows. Applicant argues that 1) Hunt does not suggest treating the specific conditions associated with p38 kinase activity as taught in amended claim 1; in particular, the instant specification discloses p38 assay data on pages 22-24 of the specification that is not disclosed in Hunt and 2) with respect to claims 2,4, sulfonamide has been removed from the definition of R12 and "-SO₂NHR17" from the definition of R13 and in claim 5 "-SO₂NH-" has been removed from the definition of Y and -SO₂NHR17 from the definition of R13. However, note that Y can still be defined as "-NH-SO₂-" which is the same as "-SO₂NH-" which has been deleted. The amendments to the claims described above overcome the rejection set forth using Hunt. Examiner argues that 1) Hunt suggests the administration of the same compounds as taught in instant invention to a patient suffering from psoriasis, arthritis, and diabetes which are also being treated in the present invention. Based on this teaching it is obvious that the compounds administered in the Hunt patent would affect p38 kinase activity. This is obvious because Hunt suggests a method of administering to a patient the same compounds as claimed to treat the same conditions as claimed. Therefore it is inherent that the activity of the same compound whether administered by Hunt or instant inventor

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to treat the same condition would follow the same mechanistic pathway, i.e. both the Hunt patent method and instant method would affect p38 kinase activity. To further address the argument set forth by the Applicant, Examiner has modified the previous rejection under Hunt written in office action dated 10/23/06 and has set forth the modified rejection according to Hunt below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt on record. Hunt teaches the pyrrolotriazine where Y is absent; R1 = H; X = -NR11C=O-; R2, R3 = Me; ZR5 = NH; R4 = substituted phenyl; R13 = alkyl and R11 = H or alkyl. Hunt's pyrrolotriazine compound is equivalent to instant compound where R1 = H; R2, R3 = methyl; X = -NR10C=O-; R10 = H or alkyl; ZR5 = NH; and R4 = substituted phenyl. Hunt teaches that pyrrolotriazine compounds of his invention can be used in methods of treating cancer, psoriasis, arthritis, inflammation, autoimmune disease, and diabetic retinopathy. See column 6 line – column 7 line 10. These are conditions associated with p38 kinase activity as indicated in instant claims 7-8. Hunt does not exemplify methods of treating said conditions with his compound described above. However, it would have been obvious to one having ordinary skill in the art to have employed the compound described in methods of treating said conditions. One would

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have been motivated to do this since Hunt states that his invention is based on the discovery that certain pyrrolotriazines are inhibitors of protein kinases. See column 6 lines 44-45.

With respect specifically to claims 2 and 4-6, Hunt suggests the method of using compounds where X-R2 = N-R11CO-alkyl or $-C(=O)NR_{19}$; Y = absent; R3 = substituted alkyl; R5,R1 = H; R6 = H, alkyl; Z = N; R4 = ureido substituted aryl, carbamyl sulfonamide or sulfonamide substituted aryl. This compound is the instant compound where X-R2 = N-R10CO-alkyl or $-C(=O)NR_{10}$ (R2a,R10 = H); R3 = Me or trifluoro methyl; R1,R5 = H; R6 = H, alkyl; Y= SO₂NH (sulfonamide). Note, Y can still be defined as "-NHSO₂-" which is the same as "-SO₂NH-" which has been deleted from the definition of Y in amendment filed 1/17/07. Hunt does not exemplify a method of treating said conditions using this compound. However, it would have been obvious to one having ordinary skill in the art to have employed the compound in methods of treating said conditions. One would have been motivated to do this since Hunt states that his invention is based on the discovery that certain pyrrolotriazines are inhibitors of protein kinases. See column 6 lines 44-45.

Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Alton Pryor', is positioned above the printed name.

Alton Pryor
Primary Examiner
AU 1616